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either in equity or at law on the ground that it is not fair that a person should profit from his own misrepresentations. The doctrine of the principal case would seem to be a desirable one.

CONFLICT OF LAWS — JURISDICTION FOR DIVORCE — INDIAN DIVORCE. — A white man married and then abandoned his white wife, the plaintiff, in Illinois. He went to live among the Pottawatomie Tribe of Indians in Indian Territory, by whom he had formerly been adopted. He acquired land there and died. By the tribal law the marriage status of members of the tribe might be terminated at will and abandonment operated as a divorce. The plaintiff, claiming as his widow, sought an interest in his real estate. *Held*, that the Indian divorce is valid. *Cyr v. Walker*, 116 Pac. 931 (Okl.). See NOTES, p. 374.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN JUDGMENTS — EFFECT OF REVERSAL OF JUDGMENT GIVEN EFFECT IN ANOTHER STATE. — A. and B. claimed the right of custody of a child. A decree of an Illinois court awarded the custody to A. Subsequently in *habeas corpus* proceedings brought by B. in Kansas, the court held that the Illinois decree was controlling. Afterwards, the appellate court in Illinois reversed the judgment of the lower court. *Held*, that the judgment of the Illinois appellate court is not admissible, in a prosecution in Kansas for kidnapping, to prove that A. did not have lawful custody of the child. *State v. Tillotson*, 117 Pac. 1030 (Kan.).

The pendency of an appeal from a final judgment does not prevent that judgment from being successfully pleaded as *res judicata*. *Parkhurst v. Berdell*, 110 N. Y. 386, 18 N. E. 123. Does the subsequent reversal of the judgment on appeal affect the rights of the parties? That depends, it is submitted, on the basis of the rights claimed. If, in the principal case, the Kansas court merely dismissed the proceedings before it, the basis of A.'s right was the Illinois decree, and the reversal took away that right. But if, as it was held, the Kansas court made an affirmative decree, the decree established a new right. Subsequent reversal of the Illinois decree could affect this right only as a later determination of the right to custody. The Illinois court was one of competent jurisdiction and its decree entitled to full faith and credit. *Bleakley v. Barclay*, 75 Kan. 462, 89 Pac. 906. However, as the judgment of reversal only purported to declare the right to custody at the time when the suit began, it did not involve a later determination of that right; consequently it was rightly held inadmissible. It might, however, have been ground on which to base a new suit. *Cf. White v. Atchison, etc. Ry. Co.*, 74 Kan. 778, 88 Pac. 54.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN PENAL LAWS — SUIT TO COLLECT A FOREIGN TAX. — The state of Maryland and the city of Baltimore sued the defendant in New York for the amount of taxes assessed against his personality while he was a resident of Baltimore. Maryland courts consider that a tax raises a contractual liability while New York courts do not. *Held*, that the plaintiffs cannot recover. *State of Maryland v. Turner*, 46 N. Y. L. J. 935 (N. Y., Sup. Ct.).

It is an elementary principle that one country will not enforce the penal laws of another country. See 1 WHARTON, CONFLICT OF LAWS, 3 ed., §§ 4, 4 b. This principle probably applies with equal force to revenue laws. See *Wisconsin v. Pelican Ins. Co.*, 127 U. S. 265, 290, 8 Sup. Ct. 1370, 1374. At all events a special assessment for improvements on real property is in the nature of a penalty and is not recoverable abroad. *Municipal Council of Sydney v. Bull*, [1909] 1 K. B. 7. Whether the law which is presented for enforcement is penal or not is a question for the consideration of the court whose aid is invoked. *Huntington v. Aittrill*, [1893] A. C. 150. Even if the obligation has been reduced

to a judgment in its home forum, the foreign court must decide for itself what is the true nature of the liability. See *Huntington v. Attrill*, 146 U. S. 657, 683-684, 13 Sup. Ct. 224, 234. *A fortiori*, then, in the principal case the court was clearly right in abiding by its own view of the nature of a tax. Any other decision would put the state in the peculiar position of collecting taxes for such states as regard the obligation as contractual, and refusing to collect the same sort of tax for other states that regard it as penal. See *Huntington v. Attrill*, [1893] A. C. 150, 155.

CONFLICT OF LAWS — REMEDIES: RIGHT OF ACTION — FOREIGN CONTRACT CONTRARY TO PUBLIC POLICY OF FORUM. — Jewelry delivered to an express company for carriage from New York to Virginia was lost *en route*. The contract of shipment, limiting the company's liability to fifty dollars, was valid in New York, where it was made, but was invalid by statute in Virginia, where suit was brought. *Held*, that the plaintiff may recover the full value of the goods lost. *Adams Express Co. v. Green*, 72 S. E. 102 (Va.).

The best rule is that the law of the place of contracting should govern the validity of a contract. See 23 HARV. L. REV. 260, 270-272. But in the last analysis a sovereign state, subject in this country to the federal and state constitutions, may deny relief or enforce liability in its courts as it pleases. Since, however, most sovereign states are interested in the administration of justice, a valid contract will usually be enforced. *Forepaugh v. Delaware, etc. R. Co.*, 128 Pa. St. 217, 18 Atl. 503; *Greenwood v. Curtis*, 6 Mass. 358. Yet if the court believes that justice will result from not enforcing the contract, there is nothing to prevent a denial of relief. See 1 WHARTON, CONFLICT OF LAWS, 3 ed., § 4a. So in the principal case the contract was not enforced because it was said to be against the public policy of the state. *The Kensington*, 183 U. S. 263, 22 Sup. Ct. 102; *Chicago, B. & Q. R. Co. v. Gardiner*, 51 Neb. 70, 70 N. W. 508. Public policy differs in the various jurisdictions, and the canons for determining public policy are so indefinite, that it is not surprising that there are cases *contra*. *Fonseca v. Cunard Steamship Co.*, 153 Mass. 553, 27 N. E. 665; *Talbot v. Merchant's Despatch Transportation Co.*, 41 Ia. 247. Criticism of such cases would only involve us in questions of fact or economic principles. See 2 WHARTON, CONFLICT OF LAWS, 3 ed., § 471 c.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — ADMINISTRATION OF ESTATE OF ABSENTEE IRRESPECTIVE OF DEATH. — A Massachusetts statute provided that wherever a resident disappeared without leaving any known agent, the court might order the seizure of his property and after due notice appoint a receiver. If the absentee did not appear within fourteen years after his disappearance, or one year after the appointment of a receiver, if a receiver was not appointed within thirteen years after the date of his disappearance, his title was barred and his next of kin were entitled to distribution. *Held*, that the statute is constitutional. *Blinn v. Nelson*, 32 Sup. Ct. 1. See NOTES, p. 377.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — REGULATION OF FIRE INSURANCE RATES. — A Kansas statute provided for a regulation of the rates of fire insurance companies. *Held*, that the statute is constitutional. *German Alliance Ins. Co. v. Barnes*, 189 Fed. 769 (Circ. Ct., D. Kan.). See NOTES, p. 372.

CONTEMPT — POWER TO PUNISH FOR CONTEMPT — NATURE OF CRIMINAL CONTEMPT. — The respondent was charged with contempt of court for disobeying an injunction. He moved to dismiss the charges, because the offense had been committed more than three years before the charges were filed.